IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO. 517 OF 2003

Mr. Vishwasrao Shidojirao Patil
& Anr. ... Appellants.

V/s.

Mr. Laxman Bandu Patil(Deceased)
& 4 Ors. ... Respondents.

....

Mr. R.G. Ketkar for the Appellants.
None for the Respondents.

CORAM : DR.D.Y. CHANDRACHUD J.

05TH JULY 2007.

P.C. :

. On a review of the evidence both the Courts have concurrently found that a road had existed on the suit land. Exhibit 89 showed that the road was in existence since the year 1862. In that view of the matter, the decree of the trial court restraining the Defendant from disturbing the Plaintiffs in respect of the use of the road having a width of 6 mtrs. cannot be faulted.

2. Counsel appearing on behalf of the Appellant while conceeding that the Appellant cannot dispute the finding of fact that has been recorded by the Courts below, expressed the apprehension that the existing trees may not be disturbed in the process of the execution of the decree. The decree requires the Defendants to remove obstacles and stones in the suit way. There is no merit in the challenge and such obstructions which have been directed to be removed will have to be removed.

3. There is no merit in the Second Appeal which is accordingly dismissed.